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tions a telegraph company shall enter the city and pass through it. *Mutual Un. Tel. Co. v. City of Chicago,* 16 Fed. 309. And, while there is no power in a municipality arbitrarily to declare a forfeiture of the company's right to occupy its streets, *Abbott v. Duluth,* 104 Fed. 833, nevertheless a city cannot, by a contract which permits a telephone company to construct and maintain its line upon a certain street, deprive itself of the power to enact such legislation as is necessary for the public safety, general welfare, and Convenience. *Mich. Tel. Co. v. City of Charlotte,* 93 Fed. 11.

TELEPHONES — POLES AND WIRES IN STREETS — ADDITIONAL BURDEN. — FRAZIER V. EAST TENNESSEE TELEPHONE COMPANY, 90 S. W., 620. (TENN.). *Held,* that telephone poles and wires erected in the street do not constitute an additional burden upon the fee of abutting owners, for which they are entitled to compensation. Shields, J., *dissenting.*

Cases on this point are in irreconcilable conflict, the weight of authority being to the effect that such wires and poles are an additional burden. It is said that the erection and use of telephone wires and poles is one of the new uses over which the power of the city extends as it springs up, as well as to uses common and known at the grant of the power to the city. *City of St. Louis v. Bell Telephone Company,* 96 Mo. 623. And it is held in Missouri that telephone companies organized under the laws of the state may set their poles and wires along the public street, without compensation to owners of abutting fees, subject to regulation by the city. *The State ex rel v. Flad.* 23 Mo. App. 185. Statute giving right to erect poles and wires is constitutional though it makes no provision for compensation to the owners of the fee. *Pierce v. Drew,* 136 Mass. 75. On the other hand it is said that a telephone system not being a use to facilitate travel is an added servitude to the fee. *Union Elec. Tel. & Telg. Co., v. Applequist,* 104 Ill. Appl. 517. *Ches. & Pot. Tel. Co. v. Mackenzie,* 28 Am. St. Rpts. 219. The public easement includes the grading, paving, cleaning and lighting of the highway, the apparatus of street railways and apparatus for the protection and convenience of travelers using the way, but the right to construct a telephone line for public use is not within this easement and can be acquired upon the fee of abutting owners, against the consent of such owners, only through the power of eminent domain. *Nicoll v. Tel. Co.,* 62 N. J. L. 733; *Hodger v. Tel. Co.,* 133 N. C. 235.

TRIAL — ARGUMENT OF COUNSEL — APPEAL TO SYMPATHY. — DALLAS CONSOLIDATED ELECTRIC ST. RY. CO. V. BLACK, 89 S. W. (TEX.) 1087. *Held,* that where in an action against a corporation for injuries, the evidence was conflicting, it was prejudicial error for counsel for plaintiff to argue that plaintiff was a poor girl and defendant a rich corporation, though such facts were in evidence.

Where counsel uses language calculated to arouse prejudice in the jury, an adverse party may interpose, and if the court fails or refuses to check the abuse an exception lies. *Abbott's Brief on Civil Jury Trials.* 2nd Ed. 399. It is not within the privilege of counsel in argument to jury to use language calculated to humiliate or degrade the opposite party in the eyes of the jury. *Coble v. Coble,* 79 N. C. 589. And he may not avert the consequences of his remark by taking it back. *Wolfe v. Minnis,* 74 Ala. 386. It is the duty of the court to stop him under these circum-